

RECEIVED

FEB 3 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYBefore The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

ORIGINAL

In the Matter of	)	
	)	
GTE CORPORATION,	)	
	)	
Transferor,	)	CC Docket No. 98-184
	)	
and	)	
	)	
BELL ATLANTIC CORPORATION,	)	
	)	
Transferee,	)	
	)	
For Consent to Transfer	)	
of Control	)	

**OPPOSITION OF AT&T CORP. TO BELL ATLANTIC AND  
GTE OPPOSITION TO DISCLOSURE OF STAMPED CONFIDENTIAL  
DOCUMENTS AND REQUEST FOR EXPEDITED TREATMENT**

AT&T Corp. ("AT&T") respectfully submits this opposition to the joint opposition of Bell Atlantic and GTE to disclosure of stamped confidential documents to Aryeh Friedman, an AT&T in-house attorney, and requests that the Commission expeditiously resolve this dispute.

The Protective Order adopted by the Common Carrier Bureau in this proceeding expressly authorizes disclosure of "Stamped Confidential Documents" to "in-house counsel who are actively engaged in the conduct of this proceeding, provided that those in-house counsel seeking access are not involved in competitive decisionmaking, i.e., counsel's activities, association and relationship with a client that are such as to

No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_

0+11

involve counsel's advice and participation in any or all of the client's business decisions made in light of similar or corresponding information about a competitor." Protective Order, ¶ 3.<sup>1</sup> Neither Bell Atlantic nor GTE deny that Mr. Friedman is actively involved in this proceeding. Based solely on the fact that Mr. Friedman holds the title of "Senior Attorney," however, Bell Atlantic and GTE "presume[]" that Mr. Friedman is "engaged in competitive decision-making." BA/GTE Opp. 5. Bell Atlantic and GTE's opposition appears to be based on a fundamental misunderstanding of the rank of a "Senior Attorney" within AT&T, and their objection thus falls well short of the required standard.

As the accompanying affidavit from Mr. Friedman attests, the vast majority of AT&T in-house counsel hold the title of "Senior Attorney." Indeed, of the approximately 230 attorneys at AT&T, only approximately 30 hold a rank below that of "Senior Attorney." Friedman Aff., ¶ 1. "Senior Attorneys" do not have any management responsibilities within AT&T's law department or AT&T generally. Mr. Friedman's position within AT&T thus bears no similarity whatsoever to the Bell Atlantic "Senior Vice-President[s] and Deputy General Counsel[s]" whom the

---

<sup>1</sup> Order Adopting Protective Order, Exhibit A, In the Matter of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferr, CC Docket 98-184 (released Nov. 19, 1998).

Commission concluded in the MCI-WorldCom proceeding were presumptively involved in competitive decisionmaking.<sup>2</sup>

Indeed, as Mr. Friedman's affidavit further explains, Mr. Friedman's work consists entirely of performing the in-house counsel functions of "antitrust compliance, antitrust litigation and regulatory work." Mr. Friedman does "not advise or participate in 'competitive decisionmaking'" or in AT&T's "business decisions." Friedman Aff., ¶ 2. Because Bell Atlantic and GTE's opposition is based entirely on its mistaken assumptions about the role played by an individual with the title "Senior Attorney" within AT&T, there is no genuine dispute of fact that Mr. Friedman clearly satisfies the standards for permissible disclosure under the Protective Order.<sup>3</sup> In this regard, AT&T notes that neither SBC nor Ameritech has objected to disclosure of documents to Mr. Friedman under the identically-

---

<sup>2</sup> Order Ruling on Joint Objections, ¶ 2, Application of WorldCom, Inc., 13 FCC Rcd. 13478, 13479 (1998).

<sup>3</sup> In this regard, Bell Atlantic and GTE's artfully drafted claim that in the MCI/WorldCom proceeding "the Commission found that a GTE employee with the title 'antitrust counsel' (C. Daniel Ward) presumptively was engaged in competitive decisionmaking," BA/GTE Joint Opp. at 5, can only be designed to mislead. Although AT&T is in no position to assess the relative rank of an attorney with the title "antitrust counsel" within GTE, the fact is that nowhere in the MCI/WorldCom order did the Commission even mention what Mr. Ward's title was, let alone rely on his title in resolving the dispute with regard to disclosure of documents to him. Instead, the Commission relied on the simple fact that GTE did not "make any objections to the denial of access to . . . C. Daniel Ward," or deny that he in fact did participate in competitive decisionmaking. MCI/WorldCom Order, 13 FCC Rcd. at 13480-81 (¶ 5). Neither statement, of course, applies here.

worded standards contained in the Protective Order issued in that proceeding.<sup>4</sup>

In its MCI/WorldCom order, the Commission noted that MCI and WorldCom had not objected "to the disclosure of confidential information to several other in-house attorneys for Bell Atlantic," and that denial of access to Mr. Ward would not "deprive Bell Atlantic . . . [of] an opportunity to participate in this proceeding." 13 FCC Rcd. at 13481 (¶ 6). The same cannot be said here. AT&T notes that Mr. Friedman is the only in-house counsel whom AT&T has thus far designated for review of confidential documents, and that if Mr. Friedman does not qualify under the Protective Order's standard it is difficult to see how any in-house counsel would. It is obviously imperative for AT&T to have in-house counsel available to make the necessary strategic decisions on behalf of the client in this proceeding, as well as to oversee and assist AT&T's outside counsel in the conduct of their representation of AT&T. Because the Protective Order forbids disclosure of documents to Mr. Friedman until Bell Atlantic's and GTE's "objection is resolved by the Commission," Protective Order, ¶ 5, it is vital to AT&T's ability meaningfully to participate in this proceeding that the Commission not only deny the objection but do so expeditiously.

---

<sup>4</sup> Order Adopting Protective Order, Exhibit A, ¶ 3, In the Matter of Ameritech Corporation, Transferor and SBC Communications Inc., Transferee, CC Docket 98-141 (released Oct. 2, 1998).

Accordingly, AT&T respectfully requests that the Commission (1) deny the objection to disclosure of stamped confidential documents to Mr. Friedman, and (2) resolve this dispute as expeditiously as feasible.

Respectfully submitted,

MARK C. ROSENBLUM  
ARYEH S. FRIEDMAN  
295 North Maple Avenue  
Basking Ridge, NJ 07920  
(908) 221-3539

*Peter D. Keisler / gl*  
PETER D. KEISLER  
DANIEL MERON  
SIDLEY & AUSTIN  
1722 I. St., N.W.  
Washington, D.C. 20006  
(202) 736-8132

Attorneys for AT&T Corp.

February 3, 1999

**ATTACHMENT**

STATE OF NEW JERSEY )  
 )  
COUNTY OF SOMERSET )

SS:

I, Aryeh Friedman, do hereby declare and state as follows:

1. My current position at AT&T is Senior Attorney. I am one of approximately 130 Senior Attorneys who report to approximately 60 General Attorneys, who in turn report to approximately 10 Law Vice Presidents, who in turn report to the General Counsel at AT&T. There are currently approximately 30 Attorneys at AT&T who are below the level of Senior Attorney.

2. My work involves antitrust compliance, antitrust litigation and regulatory work before the Commission. I do not advise or participate in "competitive decisionmaking" as defined by the Protective Order, in that I do not participate in my client's business decisions "made in light of similar or corresponding information about a competitor."

  
Aryeh Friedman

Subscribed and sworn to  
before me this 15th day  
of February, 1999.

  
Notary Public

Terri Iannotta  
Notary Public  
Expires 4/08/2002

**CERTIFICATE OF SERVICE**

I, Daniel Meron, hereby certify that, on this 3rd day of February, 1999, I served a copy of the attached Opposition to and Request for Expedited Treatment by hand delivery on the following:

Steven G. Bradbury  
Gerald F. Masoudi  
Kirkland & Ellis  
655 15th Street, N.W.  
Washington, D.C. 20005

Michael E. Glover  
Robert H. Griffen  
Bell Atlantic Corporation  
1320 North Court House Road  
Arlington, VA 22201

Sue D. Blumenfeld  
Michael G. Jones  
Jay T. Angelo  
Willkie Farr & Gallagher  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20036

Daniel Meron